

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARIBEL BAEZ; FELIPA CRUZ; RD., ON BEHALF OF :
HER MINOR CHILD, A.S.; on their own behalf and :
on behalf of all others similarly situated; :
UPPER MANHATTAN TOGETHER, INC.; and :
SOUTH BRONX CHURCHES SPONSORING :
COMMITTEE, INC., :

Plaintiffs, :

vs. :

NEW YORK CITY HOUSING AUTHORITY, :

Defendant. :

13 Civ. 8916 (WHP)

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DECLARATION OF FELIPA CRUZ IN SUPPORT OF
PLAINTIFFS' MOTION TO ENFORCE STIPULATION AND ORDER

I, FELIPA CRUZ, declare under penalty of perjury that the following is true and correct:

1. I make this declaration in support of Plaintiffs' motion to enforce the stipulation and order this Court approved on April 17, 2014. I am a named Plaintiff in this case.

2. I live in New York City Housing Authority ("NYCHA") housing in Manhattan. I am a tenant at 1260 Webster Avenue, Apartment 1C, New York, New York 10456.

3. I have lived at 1260 Webster Avenue, Apartment 1C, since 2000. My husband, Oscar Cruz, lives with me in the apartment.

4. I am sixty-four years old, and I was diagnosed with asthma when I was ten years old.

5. For many years, I have been treated for asthma by Dr. Arthur Weiner of the Montefiore Medical Group. The phone number for the Montefiore Medical Group is (718) 960-1500.

6. On December 18, 2012, I filed a request for a reasonable accommodation with NYCHA, informing NYCHA that I have asthma and describing the wet and moldy conditions in my apartment. My attorneys at the time informed me that, under disability rights law, NYCHA is required to provide me with reasonable accommodation and modification for my asthma so that I can live in an apartment free of the mold and excessive moisture that exacerbates my asthma.

7. Since 2012, my husband and I have been struggling to get NYCHA to repair the mold and moisture problems in our apartment. We have had mold and moisture problems in the living room, kitchen, hallway between the living room and kitchen, and bathroom. Photographs of the mold and excessive moisture problems in my apartment are attached to this declaration as Exhibit 1.

8. NYCHA staff performed repairs at the end of January 2014 by opening up the hallway wall next to the bathroom to try to find the source of the moisture. While the wall was open, they replaced some of the pipes. They also scraped and plastered a section of the living room ceiling, the ceiling of the half-bathroom, and portions of the wall that divides the hallway and full bathroom, both on the hallway side and the bathroom side. But by late February 2014, the mold had returned.

9. On May 22, 2014, NYCHA employees came to my apartment and cleaned the mold in the full bathroom, but they did not perform work in any other areas of the apartment, nor

did they perform any additional work to determine the source of the mold. The work order ticket number for this visit is 31965678.

10. On July 23 and 24, 2014, there was major flooding in between the kitchen and living room of my apartment. I called NYCHA on both days to report the flooding, but NYCHA employees did not come right away to fix the problem. The work order ticket numbers NYCHA gave me for these calls are 32565665 and 32574878. When NYCHA did come, they had a lot of difficulty figuring out what caused the flooding. They told me it might have been caused by a broken pipe or a problem with a bathtub in an apartment upstairs.

11. On July 29, 2014, my husband and I joined Michael Stanley, a community organizer from Upper Manhattan Together, Inc. ("Manhattan Together"), and other volunteers and leaders from Manhattan Together and the South Bronx Churches Sponsoring Committee, Inc. ("SBC") at a meeting with Mr. Carlos Laboy-Diaz, NYCHA's former Executive Vice President of Operations, and other NYCHA staff. At this meeting, we talked about the mold and moisture problems that were still happening in our apartment and the apartments of many NYCHA tenants even after the Order was entered. During this conversation, NYCHA agreed to send a representative to my apartment to monitor the repair work and make sure that it would be completed.

12. NYCHA employees came to my apartment on July 31, 2014 to make the repairs. They attached a metal basket with a hose to the wall between the living room and the kitchen and connected the hose directly to the basement to collect and flush out the water coming from our apartment. At first it seemed like the problem had been solved. But then in early December 2014 the mold came back in my bathroom and the kitchen wall started peeling and bubbling. Mr. Stanley emailed Mr. Brian Clarke (Senior Vice President for Operations, NYCHA) and Mr.

Luis Ponce (Senior Vice President for Operations Support Services, NYCHA) on my behalf on December 11, 2014 to tell them that these problems had come back. NYCHA gave me work order ticket number 34391848 for the mold in my bathroom, and work order ticket number 34391908 for the peeling and bubbling paint on my kitchen wall.

13. By December 19, 2014, NYCHA employees had done nothing more than try to wipe away the mold in my bathroom. They did not try to find or fix the cause of the mold, and they told me that they would not try to fix the bubbling paint on my kitchen wall until March 3, 2015.

14. Mr. Stanley, my husband, and I continued to follow up with NYCHA employees to try to get them to make the repairs sooner. In January 2015, NYCHA opened the wall in the kitchen where the paint was bubbling. They replaced the outlets and the wiring in the wall because it had rusted from the moisture. They also put metal bars and sheets in the wall to try to block the moisture from coming through the wall. Then they closed the wall with cement. They left without re-painting the wall.

15. On February 4, 2015, NYCHA employees came to my apartment again to check that the light switches were still working after they had fixed the rusty wires. While they were checking the light switches, my husband and I saw a note from another NYCHA employee appear under our door. The note said that the NYCHA employee had come to plaster the wall, but because no one was home, the plastering would be rescheduled for March 14, 2015. The work order ticket number on this note was 35311780. We were surprised by this because we were in the apartment with other NYCHA workers at the time the note came under the door claiming that nobody was home. We were also confused because we did not need any plastering

– what we needed was painting. A NYCHA employee then told my husband and me that our appointment for repainting was scheduled for early April 2015.

16. My husband told Mr. Stanley what had happened on February 4, 2015 and asked him to help us. Mr. Stanley emailed Ms. Melania Allen (Property Management Director, Bronx County, NYCHA), Mr. Clarke, and several other NYCHA employees on February 13, 2015 to tell them that they needed to repaint my wall sooner than early April. Mr. Stanley then told my husband that Ms. Allen agreed to send a NYCHA employee to repaint the wall on February 20, 2015.

17. A NYCHA employee came to my apartment in the late afternoon on February 20, 2015 to repaint the wall. It seemed like the repairs to the mold and moisture problem in my apartment were finally completed, but it had taken many complaints to NYCHA by me, my husband, and Mr. Stanley to fully fix the problem.

18. My husband and I were very disappointed when the mold started to come back on the bathroom ceiling by March 11, 2015. We think the mold may have come back because the vent in the bathroom had stopped working. Mr. Stanley emailed Mr. Clarke on my behalf to tell him that the mold had come back on the bathroom ceiling and to ask him to send NYCHA staff to repair the vent in the bathroom. NYCHA staff fixed the vent and scrubbed off the mold about two weeks later.

19. But by April 8, 2015, the mold had grown back, and a crack appeared in the wall. Also, there was still a lot of dirt in the bathroom vent.

20. The mold continued to spread and, on April 20, 2015, a NYCHA maintenance worker came to my apartment to look at the walls in the bathroom and the hallway outside the bathroom. He told me that the walls were very warm, and that this meant there was a problem.

He then said he was going to go check on something and come back in an hour, but he never came back. Instead, he called later to say he thought there was a problem in the basement of the building, and that this was causing the problems in our apartment since we are on the first floor. He said he would come back the next day. On April 21, NYCHA workers came to our apartment again to check the heat in the walls, and then they checked the boiler in the basement. They told my husband and me that gaps in the walls in the boiler room were letting heat out, and they would come back later in the week to fix this problem. My husband asked them to call us in advance to let us know when they would be coming back, but instead they just showed up on April 22, 2015 without making an appointment time with us, and so only our children were home at the time they arrived. Our children told us that the NYCHA staff cleaned the vent in the bathroom but did not leave any contact information at which we could reach them for more information about the problem in the basement and the heat in our walls.

21. It has now been a year since entry of the Court's Order, and even though my husband and I have complained to NYCHA many times, we still have serious mold and moisture problems in our bathroom. I think NYCHA's "repairs" do not prevent the mold from coming back because NYCHA does not fix the moisture problems that are causing the mold.

4/22/15

Date

Felipa Cruz

Felipa Cruz